
THIRD READING

Bill No: SB 1064
Author: Laird (D)
Amended: 4/16/24
Vote: 27

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 4/22/24
AYES: Ashby, Alvarado-Gil, Archuleta, Becker, Dodd, Eggman, Glazer, Niello,
Roth, Smallwood-Cuevas, Wilk
NO VOTE RECORDED: Nguyen, Menjivar

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/16/24
AYES: Caballero, Jones, Ashby, Becker, Bradford, Seyarto, Wahab

SUBJECT: Cannabis: operator and separate premises license types: excessive concentration of licenses

SOURCE: Rural County Representatives of California
California Cannabis Industry Association

DIGEST: This bill revises the current licensing framework for retail, distribution, processing and manufacturing of cannabis or cannabis products for commercial cannabis activity by creating a uniform operator license, a revised premises license, as specified, and transforming a cultivation or laboratory license into a unified license by January 1, 2028.

ANALYSIS:

Existing law:

- 1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (Business and Professions Code (BPC) §§ 26000 *et seq.*)

- 2) Establishes the Department of Cannabis Control (DCC) to regulate cannabis with the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products within the state. Requires the DCC to administer the portions of MAUCRSA related to and associated with the cultivation of cannabis and with the manufacturing of cannabis products. Delegates to the DCC authority to create, issue, deny, and suspend or revoke cultivation or manufacturing licenses for violations of MAUCRSA. (BPC §§ 26010, 26012)
- 3) Provides for 22 total types of cannabis licenses including subtypes for cultivation, manufacturing, testing, retail, distribution, and microbusiness; requires each licensee except for testing laboratories to clearly designate whether their license is for adult-use or medicinal cannabis. (BPC § 26050)
- 4) Requires the DCC to consider when determining whether to grant, deny, or renew a retail license, microbusiness license, or a licensed issued, as specified, if an excessive concentration exists in the area where the licensee will operate, and defines “excessive concentration. (BPC § 26051(c))

This bill:

- 1) Revises and/or adds the following definitions:
 - a) “Applicant” to mean an owner applying for an operator or unified license or the holder of an operator license applying for a premises license.
 - b) “License” to mean a state operator license, premises license, or unified license issued including an A-license or an M-license.
 - c) “Local permit” to mean a valid, unexpired license, permit, or other authorization to engage in commercial cannabis activities issued by an affirmative act of a local jurisdiction or its duly authorized official, as specified.
 - d) “Operator license” to mean a state license establishing the applicant’s eligibility to engage in commercial cannabis activities, other than the commercial activity that is conducted under a unified license, as specified.

- e) “Premises” with respect to commercial cannabis activity under a unified license, to mean the designated structure or structures and land specified in the application for a unified license that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be conducted and deletes the requirement that .
 - f) “Premises” with respect to any other commercial cannabis activity to mean the designated structure or structures and land permitted by the local jurisdiction and specified in the application for a premises license (as defined) that is owned, leased, or otherwise held under the control of the licensee where the commercial cannabis activity will be or is conducted.
 - g) “Unified license” to mean a state license issued under the cannabis act, authorizing commercial cannabis activity that includes the cultivation or laboratory testing for cannabis or cannabis products.
 - h) “Microbusiness” to mean a license that engages in at least three of the following commercial cannabis activities, cultivation of cannabis on an area less than 10,000 square feet, level 1 manufacturing, licensed distribution; or, retail.
- 2) Requires a microbusiness licensee to demonstrate compliance with all requirements imposed on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.
 - 3) Requires the DCC to adopt regulations governing the area and occupancy of premises where commercial cannabis activities are conducted.
 - 4) Deletes from the current definition of “premises” the requirement for a premise to be a contiguous area and only be occupied by one licensee.
 - 5) Prohibits a person or entity from engaging in cultivation or laboratory testing, as specified without a state unified license.
 - 6) Prohibits a person or entity from engaging in any other commercial cannabis activity without a state operator license and a premises license issued by the DCC pursuant to MAUCRSA and a local permit, as specified.

- 7) Divides the microbusiness license into 1) a type 12-1 which authorizes a licensee to conduct any commercial cannabis activities as described in the definition of a microbusiness license in (1)(h) above to include cultivation and 2) a type 12-2 which authorizes any commercial cannabis activity described in (1)(h) above that does not include cultivation, as specified.
- 8) Adds the “operator”, “premises”, and “unified” license classification to the list of licenses under MAUCRSA.
- 9) Deletes the existing requirement for the DCC to consider if an excessive concentration exists in an area where a licensee will operate when the DCC is determining whether to grant, deny, or renew a retail license, as specified, beginning January 1, 2028.
- 10) Deletes the existing requirement that all cannabis applicants provide evidence of the legal right to occupy and use a proposed location, as specified, and that the proposed location complies with the prohibition being near schools, day care centers, or youth centers and instead, only requires these for applicants for a unified license applicant.
- 11) Specifies that only an applicant for a unified license pay application fees, as specified, and specifies the additional requirements that an applicant for a unified license must comply with in order to obtain a unified license, as specified.
- 12) Requires the DCC to prescribe by regulation the criteria for issuance and renewal of operator licenses and unified licenses.
- 13) Requires each applicant or holder of a unified license to apply for, and if approved, obtain a separate unified license for each location where it engages in commercial cannabis activity for cultivation or laboratory testing, as specified.
- 14) Requires each holder or an operator license to apply for, and obtain, a separate premises license for each location where it engages in commercial cannabis activity.
- 15) Authorizes the holder of a unified license to be entitled to exercise all of the rights and privileges of an operator license.

- 16) States that the DCC may issue operator and unified licenses only to qualified applicants and prohibits the DCC from approving an application for a unified license or premises license if approval of such license violates any local ordinance or regulation, as specified.
- 17) Authorizes the DCC to issue a premises license only to the holder of a current and valid operator license and only for a specific premise permitted by the local jurisdiction.
- 18) Requires the DCC to implement a ministerial process, using only fixed objective standards for the review and approval of modifications, as specified, requested by the holder of a premises license.
- 19) Specifies that only a 'unified license applicant may provide proof or local authorization, instead of all license applicants.
- 20) Requires only a premises applicant to provide proof that the local jurisdiction has issued a local permit, as specified.
- 21) Revises the requirements for DCC to deny an application for a unified license and a premises license if the applicant does not meet the specified requirements for local authorization.
- 22) Revises the requirements for applicants for a unified license related to local authorization, as specified.
- 23) Requires the DCC to deny an application for an operator license or a unified license if either the applicant or the premises for which a unified license is applied do not qualify for licensure.
- 24) Establishes the licensure requirement for a premises license, as specified.
- 25) Requires the DCC to implement a ministerial process using only fixed objective standards for the review and approval of applications for a premises license.
- 26) Establishes the denial process for an operator license or a unified license, as specified.

- 27) Requires a retailer to obtain a premises license for a premise, which is a physical location from which commercial cannabis activities are conducted, as specified.
- 28) Specifies that a microbusiness that authorizes cultivation of cannabis is to be a unified license, as specified.
- 29) Revises the requirements for advertising and marketing to include the operator license number or the unified license number, as specified.
- 30) Requires the holder of a unified license or premises license to keep records identified by the DCC, and the holder of an operator license who does not also hold a current and valid premises license to keep the records identified by the DCC at the physical address of licensee's principal place of business. Licensees are required to make any examination of the records and provide and deliver copies of documents per the DCC's request.
- 31) Requires the revising licensing provisions to take effect January 1, 2028, and sunsets the current licensing system.
- 32) Deems the holder of an unexpired annual license authorizing commercial cannabis activity that is cultivation or laboratory testing on January 1, 2028 to hold a unified license, as specified.
- 33) Deems the holder of an unexpired annual license authorizing any other commercial cannabis activity than cultivation on January 1, 2028, to hold an operator license and a premises license, as specified.
- 34) States that if an annual license holder has not submitted the newly required item for a premises license, the item should be provided to the DCC as part of the next renewal process, as specified.
- 35) Makes findings and declarations, as specified, and states that the purpose of this act is to revise the procedures for issuance of state licenses for certain commercial cannabis activities to promote efficiency, avoid overlap with local land use processes while protecting local control, and reduce barriers to entry into the legal, regulated market, in furtherance of the purposes and intent of MCRSA, AUMA, and MAUCRSA.
- 36) Makes numerous other technical and conforming changes.

Background

Cannabis Policy Lab Report. In 2024, the Cannabis Policy Lab released the *California Cannabis Report: Licensing and Marketing Access. How to Improve the State's Cannabis Laws and Regulating Framework.* That report analyzed the current structure of the legal cannabis system, and provided various recommendations on ways to improve the regulation of cannabis in California. The report noted generally that those states including California, that had approved cannabis in the early to mid-2000's, likely created a regulatory construct that "focused on avoiding federal intervention and enforcement, which meant creating restrictively and tightly controlled regulatory oversight." As further explained in the report, because the federal landscape has shifted where 24 states allow for some form of non-medicinal cannabis and 38 states allow medicinal cannabis, the regulatory landscape has likely shifted from a reactive approach to tightly control all aspects of the industry to a more efficient and streamlined way of regulation which may allow for more success in the legal and licensed market. The report is critical of California's current model, noting that fundamental challenges in the regulatory framework are impeding the functionality of the many aspects of the State's cannabis program.

Licensure and the Licensing Process. Under current law, a separate license is required for every corner of the cannabis market, including growing cannabis, transporting cannabis, making cannabis products, testing cannabis products, selling cannabis, and holding an event where cannabis is sold. Under current law, "commercial cannabis activity" is defined to include all aspects of the cannabis market. A separate license is required even if multiple cannabis licensing activities are taking place at one location. Current licensing processes require an applicant to obtain multiple licenses for different commercial cannabis activities conducted at a single location. Under the provisions MAUCRSA, there are 22 separate license types specified in the BPC.

In an effort to streamline the licensing process, this bill revises the current licensing structure by creating a state "operator" license for purposes of conducting designated commercial cannabis activities at a location that has applied for and received a new "premises" license from the DCC. The "operator" license is to be applicable statewide and not be site specific or tied to any location. The aim is to

allow a potential licensee to obtain a state license to operate, without the need to first find a location to conduct business and pay the location costs prior to receiving an authorization from both the state and local jurisdiction. A separate “premises” license will be required to conduct commercial cannabis activity at a location, which may only be issued if the applicant has first obtained the “operator” license. The commercial cannabis activity that would need additionally need a “premises” license would include the following type of activity:

Separately, this bill creates a “unified” license, which will authorize commercial cannabis activities without the need to obtain a separate “premises” license from the DCC. However; in order for a “unified” license holder to engage in the designated commercial cannabis activities at more than one location, they will be required to obtain a separate “unified” license for each location where engaging in commercial cannabis activity. As this bill aims to streamline the licensure process, it will reduce the current number of license types to two. The holder of an “operator” license will not be able to conduct cultivation or laboratory testing activities, as noted above, without also holding a separate “unified” license issued by the DCC.

This bill will require an “operator licensee” to obtain a separate “premises” license for each location the operator seeks to engage in commercial cannabis activity. The review process by the DCC for the proposed “premises” permit is required to be ministerial and the DCC will be limited to utilize only fixed objective standards for the review and approval or modifications. The provisions proposed in this bill make it clear that the DCC is not to approve any application for a “premises” license in violation of any local ordinance. As currently drafted, this bill maintains specified requirements that the DCC must comply with for issuing a denial of an application for an “operator” license and a “unified” license, with are consistent with existing law (BPC § 26058). However, it is unclear if the denial of a “premises” license will be consistent with those provisions. The “premises” license is intended to only be issued to an applicant that already has a state “operator” license and has received the appropriate local permit or authorization. Because the local authorities have already approved the location, the DCC’s role in premises approval is to be limited.

In another effort to streamline the DCC’s licensure review process, this bill deletes a provision in current law which requires the DCC to consider when determining whether to grant, deny, or renew a retail license or microbusiness license to consider if an excessive concentration exists in the area where the licensee will operate. Existing law further specifies what is considered as “excessive

concentration” for purposes of DCC’s review. This bill will remove the requirement for DCC to consider excessive concentration for issuance of an “operator” license. It is unclear how the DCC undertakes this concentration review currently, including what criteria is used and why the DCC is a better determinant of excessive concentration than a local licensing authority.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

The bill will result in unknown significant costs ranging in the millions of dollars for DCC to modify its existing cannabis licensing framework.

SUPPORT: (Verified 5/16/24)

California Cannabis Industry Association (co-source)
Rural County Representatives of California (co-source)
California State Association of Counties
League of California Cities

OPPOSITION: (Verified 5/16/24)

None received

ARGUMENTS IN SUPPORT: Supporters note generally that the bill represents a crucial step forward in achieving two primary objectives: to encourage economic growth and stability in the legal cannabis industry, and to incentivize local governments to permit commercial cannabis activity by establishing clear responsibilities and a streamlined process, thereby expanding much-needed access to legal retail.

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5/17/24 10:09:21

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